

## **REMARKS/ARGUMENTS**

Prior to the present Reply, claims 5, 24-26, 28-31, 33, 36, and 40-45 were pending in the present application. Claims 25, 36, and 40-45 have been amended through this Reply. No claims have been added or canceled. Accordingly, following the entry of this paper, claims 5, 24-26, 28-31, 33, 36, and 40-45 will be pending in the present application. Reconsideration of the present application is respectfully requested in view of the above amendments and following remarks.

No new matter has been added; support for the amendments to the claims is found throughout the application.

### **Rejection under 35 USC § 112, first paragraph**

The Examiner has rejected claims 25, 26, 28-33, 36, 42, and 45 under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserts that the specification contains no support for the claim language “determining, responsive to the first correlation function, a second integration time which may differ from the first integration time” as recited in claims 25, 36, 42 and 45. The rejection is respectfully traversed.

The determination of a second integration time, responsive to a first correlation function, is described in the specification. For example, paragraph [0056] describes that if an estimation attempt is not successful, "a second attempt is made to estimate the one or more parameter(s) from a correlation function derived using a second integration time which may differ from the first." Specific examples are provided as paragraph [0057] which states "if the first attempt was unsuccessful because the peak energy of the correlation function derived from the signal using the first integration time was too weak to allow estimation of the one or more parameter(s) ... the second integration time may be greater than the first." Paragraph [0057] goes on to provide another example, stating that “if the first attempt was unsuccessful because the peak energy of the correlation function derived from the signal using the first integration time was so strong that the estimator saturated, the second integration time may be shorter than the first.” Thus, it is submitted that adequate support is provided for determining a second integration time responsive to the first correlation function.

Accordingly, it is submitted that the rejection under 35 USC § 112, first paragraph, has been overcome. Reconsideration and withdrawal of the rejection is therefore requested. In the event that the Examiner maintains the rejection, it is respectfully requested that the Examiner specifically point out why the claimed subject matter is not supported in the specification.

**Rejection under 35 USC § 112, second paragraph**

The Examiner has rejected claims 25, 36, 42, and 45 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserts that it is not clear how “the second integration time” is determined from the “first correlation function.” The rejection is respectfully traversed.

The determination of the second integration time, as recited in each of claims 25, 36, 42, and 45, is “responsive to the first correlation function.” It is submitted that the claim language is definite, in that each the claims require “determining, responsive to the first correlation function, a second integration time...” Thus, the first correlation function is used in the determination of the second integration time. As discussed in MPEP § 2173.02, definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the application disclosure, the teachings of the prior art, and the claim interpretation that would be given by one possessing the ordinary level of skill in the art. It is submitted that the scope of these claims would be clear to a hypothetical person possessing the ordinary level of skill in the art. This is further supported by the specification, which, as mentioned above, includes examples of determining a second integration time responsive to a first integration time. Thus, one of ordinary skill in the art would understand the scope of these claims.

Accordingly, it is submitted that the rejection under 35 USC § 112, second paragraph, has been overcome. Reconsideration and withdrawal of the rejection is therefore requested. In the event that the Examiner maintains the rejection, it is respectfully requested that the Examiner specifically point out any phrases that are considered vague and indefinite, and provide an analysis of why the noted language is vague and indefinite, according to MPEP §2173.02.

**Rejection under 35 USC § 101**

The Examiner has rejected claims 40-45 under 35 USC § 101 as being directed to non-statutory subject matter. Specifically, claims 40-45 are rejected as being directed to descriptive

material per se. Claims 40-45 have been amended to more clearly point out that stored instructions are executable.

Accordingly, it is submitted that the rejection under 35 USC § 101 has been overcome. Reconsideration and withdrawal of the rejection is therefore requested.

### **The Double Patenting Rejection**

The Examiner has rejected claims 5, 24-26, 28-31, 33, 36, and 40-45 on the ground of obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6,738,438. Applicant submits on even date herewith a terminal disclaimer with respect to the cited patent. Accordingly, it is submitted that this rejection has been overcome.

### **Rejections under 35 USC § 102(b)**

The Examiner has rejected claim 5 under 35 USC § 102(b) as anticipated by U.S. Patent No. 5,644,591 to Sutton (hereinafter referred to as “Sutton”).

Independent claim 5 has been amended to more clearly point out the claimed subject matter. As amended is directed to a parameter estimator comprising: (a) correlation logic for determining, using a dynamically variable integration time, a correlation function representing the correlation between a signal and one or more shifted versions of an identification code; and (b) analysis logic for analyzing the correlation function and estimating, responsive thereto, at least one parameter other than the identification code relating to the signal, wherein the parameter estimator is configured to determine an integration time from an analysis of a correlation function derived from the signal using a default integration time. It is submitted that Sutton does not teach each element of this claim.

Sutton is directed to efficient acquisition of pilot signals in a mobile communications system. The code synchronization of Sutton is enhanced by limiting a search window when acquiring a pilot signal, as illustrated in Figs. 4-5, and discussed at col. 5, line 10 through col. 6, line 6. A pilot signal is considered to be acquired when the PN sequence of the pilot signal is synchronized with PN sequences generated by a PN sequence generator, as discussed at col. 3, lines 15-31. Sutton determines synchronization through the analysis of a correlation function to determine whether the correlation energy is indicative of synchronization between the generated PN sequence and that of the pilot. In this manner, the codes of the PN sequence generator and the received signals may be synchronized. Sutton does not discuss “analysis logic for analyzing

a correlation function and estimating, responsive thereto, at least one parameter other than the identification code relating to the signal,” (emphasis added) as recited by claim 5.

The analysis of Sutton determines synchronization of PN sequences. Such a PN sequence is akin to the identification code associated with the signal of the present invention. For example, as discussed in the present application at paragraph [0039] a signal from a base station “is modulated with an identification code which, in one example, is a PN code.” Claim 1 requires that the signal parameter(s) derived are parameters associated with the signal other than the identification code. Therefore, Sutton does not anticipate claim 1 because Sutton does not teach “analysis logic for analyzing the correlation function and estimating, responsive thereto, one or more parameter(s) other than the identification code relating to the signal.”

Thus, it is submitted that independent claim 5 is allowable for at least the reason that the cited reference fails to describe an estimation of at least one parameter other than the identification code relating to the signal from a correlation function, as claimed. Applicants respectfully request that the rejection of claim 5 be reconsidered and withdrawn.

### **Request for Allowance**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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